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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/650,834	05/20/1996	STEPHEN C. WREN	WR-6	3077
62250	7590	12/29/2006	EXAMINER	
STEPHEN WREN			ZURITA, JAMES H	
2120 SERENIDAD LANE, #C			ART UNIT	PAPER NUMBER
MARYLAND HEIGHTS, MO 63043-2304			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
2 MONTHS	12/29/2006	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	08/650,834	WREN, STEPHEN C.	

  

<b>Examiner</b>	<b>Art Unit</b>	
James H. Zurita	3625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 12/01/06 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1.  The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4.  (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5.  The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6.  The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8.  The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9.  The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.  Other (including any explanation in support of the above items):

see attached summary for interview of 11/22/06.

*James Zurita  
Primary Examiner*



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 08/650,834  
Filing Date: May 20, 1996  
Appellant(s): WREN, STEPHEN C.

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S. WREN, on the brief  
For Appellant

***Notice of Non-Compliant Appeal Brief***

This is in response to the appeal brief filed 1 December 2006, appealing from the Final Office action mailed 18 July 2005. Reference is made to the interview of 22 November 2006 with Mr. Wren concerning requirements of his appeal brief.

A copy is attached.

The "Fourth Substitute Appeal Brief" filed on 1 December 2006 is non-compliant. Again, for Appellant's convenience, examples follow.

Again, it is respectfully requested that, in preparing responses, Appellant review all materials carefully for format, content and factual accuracy.

The Appeal will be dismissed if Appellant does not timely file an amended brief, or files an amended brief that does not comply with 37 CFR 41.

### **(3) status of claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1-29, 37, 46, 55-56, 65-66 are cancelled. Claims 30-36, 38-45, 47-54, 57-64 and 67-116 and 121-143 have been rejected and are appealed.

Claims 117-120 are withdrawn from prosecution, having never been examined and rejected.

### **(5) Summary of Claimed Subject Matter**

The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent

claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v).

Appellant has two sections: p. 6-7 (without support) and pp. 8-26 (with support). Some claims cited in pages 8-26 are not mentioned in pages 6-7 (for example, claims 31-36, 39-43, 45, 51, 58, 77, 110, 112-114, 131, 133-134). The Examiner suggests deleting pages 6-7, since pages 8-26 include the claims found on pages 6-7.

Dependent claims: In section 5, Appellant **must** provide specific support for dependent claims 38, 47-50, 52-54, 57, 60-61, 67-69, 71, 79-81, 92-95, 107, 109, 111, 124-125, 127-129, 132, 135-137 and 139, since each is separately argued in section 7. Alternatively, in section 7, Appellant **must** remove arguments drawn to these claims.

Claim 108, Appellant continues to cite page 9, line 24 in support of claim 108. As repeatedly noted, page 9 has only 23 lines. Application 08/650834 does not have more than 24 lines per page. Therefore any cite to more than 24 lines is wrong. Please note that the citations to the instant application have not been checked for accuracy.

To facilitate review, the Examiner respectfully suggests that Appellant move purported support in external documents such as application 08/267309 to a separate appendix, leaving only purported support in the instant application in section 5.

## **(7) Arguments**

Appellant argues the merits of various dependent claims that are not mentioned in section 5: claims 38, 47-50, 52-54, 57, 60-61, 67-69, 71, 79-81, 92-95, 107, 109,

111, 124-125, 127-129, 132, 135-137 and 139. Appellant **must** remove arguments drawn to these claims from section 7.

Alternatively, In section 5, Appellant **must** provide specific support for dependent claims 38, 47-50, 52-54, 57, 60-61, 67-69, 71, 79-81, 92-95, 107, 109, 111, 124-125, 127-129, 132, 135-137 and 139, since each is separately argued in section 7.

On page 43, in arguments concerning claim 108, Appellant refers to "Woolston 265." Appellant is reminded that Woolston is not a reference in this appeal. This appears to be a word processing error.

### ***Conclusion***

Appellant's assistance is requested in preparing an appeal brief to expedite processing. Please review any Appeal Brief carefully, prior to submission.

A substitute brief that is in compliance with 37 CFR § 41.37(c) is required.

Since the above-mentioned Appeal Brief appears to be *bona fide*, Appellant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

For more information on the Board's new rules see the web page entitled More Information on the Rules of Practice Before the BPAI, Final Rule at:  
<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**James Zurita  
Primary Examiner  
Art Unit 3625  
18 December 2006**

*James Zurita  
Primary Examiner*